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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/836,677 | 04/17/2001 | Sapoty Brook | | 9883 |

7590

10/18/2002

SAPOTY BROOK
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AUSTRALIA

EXAMINER

GARRETT, ERIKA P

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 10/18/2002

11/18/03

2/18/07

1 month ext.

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,677

Applicant(s)

BROOK, SAPOTY

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-12 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 6 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Response to Amendment

The applicant did not indicate which claim to cancel or amend in attempting to "amalgamate" claims 1 and 2, as the applicant does not give clear and concise instructions to what the applicant is doing in regards to claims 1 and 2. Therefore the 102 rejection stand and will be maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 12, and 14-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Tai (5,560,056). Tai discloses the use of an inflatable base (21&22), including a base upper skin (22) which forms a layer of the upper side of the base and a lower skin (13) that forms a lower side of the base, and a rim (1) which links the upper and lower side edges of the base, an inflatable backrest (23), a fixing means (3,32) to fix the backrest to the upper skin base, and an air passage (20) that allows air flow to the backrest and base as well as under an increasing load. In regards to claim 3, the air passage is provided by a part of the base and the backrest with a shared bladder (as shown in figure 4). In regard to claim 4, Tai shows the backrest is positioned at one edge of the base upper skin. In regards to claim 12, the first part of the fastening means (34) is also the first part of the retaining means (36) and the second part of the

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retaining means. Regarding claims 14 and 15, Tai shows the use of a cover (1a) provided to cover at least one part of the bladder (2). The bladder (2) is fully enclosed by the cover (1a), the base of the upper and lower skin are parts of the cover as well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tai in view of Gancy (5,608,931). Tai shows all the teachings of the convertible inflatable furnishings but fails to show the use of the elastic material biasing the region of the base upper skin. Gancy discloses the use of the elastic material (30,34,36 &40) biasing the region of the base upper skin (12) towards the region of the base of the lower skin (14). It would have been obvious to one of ordinary skill in the art at the time the invention to modify the elastic material biasing the region of the base upper skin towards the region of the base lower skin, as shown by Gancy, in order to affect the tactile response of a user to the body-supporting upper wall of the cushion.

Claims 8-11 and 16-20 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Tai in view of Peterson (6,012,778). Tai shows the use of all the claimed invention but fails to show the deflated backrest can be inserted into the base and retained inside the base, and the use of a bladder that's tubular and it is curved

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around the connecting means. Peterson teaches the use of a first and second part of the retaining means that can be fastened together to retain the backrest in a deflated state for the purpose of portability and packaging. The first part of the fastening means (zipper) is also the first part of the retaining means (zipper) and the second part of the retaining means. The deflated backrest can be inserted into the base and retained inside the base. The base can be inserted into the backrest when they are deflated. Peterson further teaches the use of a bladder (30) that's tubular and it is curved around the connecting means (20). The bases of the upper and lower skin are parts of the cover as well. The bladder end (30) protrudes upward into the backrest (14) when it is erect and when the retaining means is released and a load is applied to the base. A nozzle (32) for inflation and deflation of the bladder is positioned near the bladder (30) end and the nozzle (32) is fixed to the cover (20) and connecting means (zipper). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the chair of Tai with a retaining means, bladder and nozzle as taught by Peterson in order to provide a comfortable fit of the occupant.

Allowable Subject Matter

Claims 6 and 13 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed on August 7, 2002 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) And *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Peterson shows the use of an inflatable seat, which could be use with elastic material as taught by Gancy.

The examiner has considered and reviewed the applicant's Amendment, filed on August 7, 2002. It's the examiner's position that the following claims are rejected. Claims 1-5, 12, 14-15 are rejected under 35 U.S.C. 102 (b) as being anticipated by Tai (5,560,056). Claim 7 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Tai in view of Gancy. Claims 8-11 and 16-20 are rejected under 35 U.S.C. 103 (a) Tai in view of Peterson (6,012,778).

On page 2, the applicant argued that the Tai backrest, due to increased load on the backrest, does not result in a recline of the backrest because it is held in the upright position by the setting belts. The examiner disagrees with this argument. It's the

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examiner's position that the Tai reference does show that the backrest, due to an increased load on the backrest, recline because it is held in the upright position by the setting belts (see figures 2-5). The applicant further argues that the Peterson reference has no air passage between the base and the backrest. However, Tai has an air passage, as shown in figures 1 and 6.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

EG
October 9, 2002


ANTHONY D. BARFIELD
PRIMARY EXAMINER